

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: **Ordinance No. 634**, Text Amendment to Chapter 15.12 of the Brisbane Municipal Code to extend building permit expirations from 6 months to 1 year.

DATE: Meeting of January 17, 2019

City Council Goals:

To provide for effective and efficient delivery of City services (Goal #1).

Purpose:

To amend the Brisbane Municipal Code (BMC) to extend building permit expiration dates from 180 days (6 months) to 1 year from permit issuance, consistent with state law (AB 2913).

Recommendation:

That the City Council introduce Ordinance No. 634.

Background/Discussion:

On September 18, 2018, Governor Brown signed AB 2913, which mandates that building permits shall remain valid for up to 12 months from permit issuance before work commences. Once work has commenced, a permit remains valid as long as it is not abandoned or suspended for 12 months or more. Prior to the passage of AB 2913, building permits expired if work had not commenced within 6 months of permit issuance, or if more than 6 months had elapsed between inspections.

The intent of the bill was to allow for a longer time period for permit expirations to reduce the number of permits that would expire, thus saving owner's time, expense and uncertainty of having to go back through the permit approval process. While this bill was prompted by the statewide shortage and high cost of housing, it applies to all types of building permits.

Specifically, the proposed ordinance would amend Brisbane Municipal Code, Section 15.12.130, extending the building permit expirations from 6 months to 1 year. This would apply to the initial permit issuance, as well as work that, once begun, has been suspended or abandoned for up to 1 year. Also consistent with state law, upon written request, the building official may grant an extension of up to one hundred and eighty days (180) days to any building permit, based upon a finding that there are justifiable reasons for postponement or delay of the work. Although the state limits an extension to 180 days, more than one extension may be granted by the building official.

BMC Section 15.12.130 also currently includes a provision to allow for a reduced building permit fee of fifty percent of the normally required fee, for re-application of expired permits, provided that no changes have or will be made in the original scope work and that the previously granted permit suspension or abandonment has not exceeded one year. Since the permit expiration would now extend out to one year, that provision has also been modified in the draft ordinance to one and a half years. Otherwise that reduced fee provision would become moot.

It should also be noted that this section of the BMC currently establishes different expiration time limits for single family homes and “all other permits”. Those separate call outs create internal inconsistencies and are inconsistent with the provisions of current state law and are therefore proposed for deletion.

Fiscal Impact:

None.

Measures of Success:

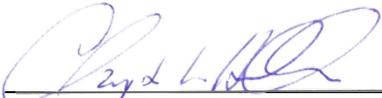
Provide for building permit effective periods consistent with state law.

Attachments:

- A. Draft City Council Ordinance No. 634
- B. Bluelined Proposed Amendments to BMC Section 15.12.130
- C. Bluelined State Code - AB 2913



John Swiecki, Community Development Director



Clay Holstine, City Manager

Draft
ORDINANCE NO. 634

AN ORDINANCE OF THE CITY OF BRISBANE
TO AMEND BRISBANE MUNICIPAL CODE TITLE 15, BUILDINGS AND CONSTRUCTION,
CHAPTER 15.12, PERMITS AND FEES.

THE CITY COUNCIL OF THE CITY OF BRISBANE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines that:

- A. The actions contained in this ordinance comply with the California Environmental Quality Act (CEQA), being Exempt by General Rule, per State CEQA Guidelines Section 15061(b)3—that CEQA applies only to projects which have the potential for causing a significant effect on the environment and this proposed action would have no possibility for such significant effect.
- B. State Assembly Bill (AB) 2913 becomes effective state-wide on January 1, 2019 and City’s adoption of this ordinance is necessary for consistency with state law governing building permit expirations.

SECTION 2: Section 15.12.130 of Chapter 15.12 Permit -Expirations of the Municipal Code is amended to read as follows:

15.12.130 - Permits—Extensions, Expiration.

Every permit issued by the building official under the provisions of this code shall expire and become null and void if the building or work authorized by such permit is not commenced within twelve (12) months from the date of issuance of such permit unless the permittee, prior to the expiration of the permit, has applied to the building official to extend the permit, or if the building or work authorized by such permit is suspended or abandoned for a period of twelve (12) months at any time after work is commenced. The following applies to requests to extend permits and permits that have expired:

- A. The building official is authorized to grant one or more extensions of up to one hundred and eighty days (180) days per extension to any building permit, based upon a finding, in the sole determination of the building official, that there are justifiable reasons for postponement or delay of the work.
- B. Where a building permit has expired, such work may nevertheless be recommenced following the building official’s issuance of a new building permit for the work. Upon request, the fee for such reissuance shall be one-half (½) the amount required for a new permit for such work; provided, that no changes have been made or will be made in the original plans or scope of such work; and, provided further, that such suspension or

abandonment has not exceeded 18 months. The building official may, at his or her discretion, waive the fee where delay in commencing work or the suspension of work has been caused by a natural disaster. Any reduction in fee in this subsection does not preclude the requirement to comply with state building code updates adopted prior to the date of re-application.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 4: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on _____ 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

ATTACHMENT B

Brisbane Municipal Code Section 15.12.130 - Permits—Extensions, Expiration.

~~A. Every permit issued by the building official under the provisions of this code shall expire and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) days from the date of suehtwelve (12) months from the date of issuance of such permit unless the permittee, prior to the expiration of the permit, has applied to the building official to extend the permit, or if the building or work authorized by such permit is suspended or abandoned for a period of one hundred eighty (180) days-twelve (12) months at any time after work is commenced. Before~~The following applies to requests to extend permits and permits that have expired:

A. The building official is authorized to grant one or more extensions of up to one hundred and eighty days (180) days per extension to any building permit, based upon a finding, in the sole determination of the building official, that there are justifiable reasons for postponement or delay of the work.

A.B. Where a building permit has expired, such work ~~can~~may nevertheless be recommenced, following the building official's issuance of a new building permit shall be first obtained thereforfor the work. Upon request, the fee for ~~which~~such reissuance shall be one-half (½) the amount required for a new permit for such work; provided, that no changes have been made or will be made in the original plans or scope of such work; and, provided further, that such suspension or abandonment has not exceeded ~~one year~~18 months. The building official may, ~~in~~at his or her discretion, waive the ~~operation of this section~~fee where delay in commencing work or the suspension of work has been caused by ~~acts of God~~a natural disaster. Any reduction in fee in this subsection does not preclude the requirement to comply with state building code updates adopted prior to the date of re-application.

~~B. Single family residential permits are valid for one year and are renewable for additional periods of one year each. The building official is authorized to grant renewals, based upon a finding that work on the project is continuing in a satisfactory manner, or that there are justifiable reasons for postponement or delay of the work.~~

~~C. All other permits are valid for two (2) years and are renewable for additional periods of one year each. The building official is authorized to grant renewals, based upon a finding that work on the project is continuing in a satisfactory manner, or that there are justifiable reasons for postponement or delay of the work.~~

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SECTION 1. Section 18938.5 of the Health and Safety Code is amended to read:

18938.5. (a) Only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, shall apply to the plans and specifications for, and to the construction performed under, that building permit.

(b) (1) A local ordinance adding or modifying building standards for residential occupancies, which are published in the California Building Standards Code, shall apply only to an application for a building permit submitted after the effective date of the ordinance and to the plans and specifications for, and the construction performed under, that permit.

(2) Paragraph (1) shall not apply to any of the following:

(A) A city or county that has been subject to an emergency proclaimed pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(B) A permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 12 months from the date of the permit or the permittee has abandoned the work authorized by the permit.

(C) A permit that is subsequently deemed suspended or revoked because the building official has, in writing, suspended or revoked the permit due to its issuance in error or on the basis of incorrect information supplied.

(c) No model code made applicable to any additional occupancy shall apply to any project that has been submitted for a building permit prior to the effective date of that model code.

SEC. 2. Section 18938.6 is added to the Health and Safety Code, to read:

18938.6. (a) Every permit shall remain valid for purposes of this part if the work on the site authorized by that permit is commenced within 12 months after its issuance, unless the permittee has abandoned the work authorized by the permit.

(b) A permittee may request an extension of a permit. The building official may grant, in writing, one or more extensions of time for periods of not more than 180 days per extension. The permittee shall request an extension pursuant to this subdivision in writing and demonstrate justifiable cause for the extension.